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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,942	04/06/2001	Ray Alan Mentzer	10004068-1	6687

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AGILENT TECHNOLOGIES
Legal Department, 51U-PD
Intellectual Property Administration
P.O. Box 58043
Santa Clara, CA 95052-8043

EXAMINER

AGGARWAL, YOGESH K

ART UNIT PAPER NUMBER

2615

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/827,942	Applicant(s) MENTZER, RAY ALAN	
	Examiner Yogesh K. Aggarwal	Art Unit 2615	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-21.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.


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PRIMARY EXAMINER

Art Unit: 2615

Examiner's response:

1. Applicant's argue with regard to claim 1 that the stabilized value V is input to A/DC converter 282 to generate a first digitalized word and this is further input to a Programmable Read only memory (PROM 284), which stores the first word and generates +Ref and -Ref analog signals after inputting through DACS 286 and 288. However, the PROM 284 is a READ ONLY memory, and thus, cannot be used to store the first digitalize word or anything else. Rather, the PROM 284 is pre-programmed to perform some sort of look-up function in response to received first digitalized word producing an upper digital code and a lower digital code, to be converted to an upper analog signal and a lower analog signal by digital-to-analog converter (DAC) 286 and 288. The Examiner respectfully disagrees.

2. PROM (Programmable read only memory) is defined in IEEE Standard dictionary of Electrical and Electronics Terms as a type of read-only memory whose contents can be initialized, or burned, only once, and cannot therefore be altered. Also www.webopedia.com defines PROM as a memory chip on which data can only be written once. Webopedia further defines a key difference between a PROM and a ROM (read only memory) is that a PROM is manufactured as a blank memory, whereas a ROM is programmed during the manufacturing process. Therefore as described in Dolazza, the first digital word that provides a general indication of the overall level of the signal S, is received by a programmable read only memory look-up table (PROM) 284 producing an upper digital code and a lower digital code based on a lookup table, to be converted to an upper analog signal and a lower analog signal by DACs 286 and 288 respectively (col. 10 lines 15-22). The look up table has to be stored in the PROM 284 previously by the camera operator (not by the manufacturer) based on some kind of previously

Art Unit: 2615

processed pixel value. Based on the definition of PROM it can only be initialized once, therefore the stored lookup table is based on an image signal of a previously processed pixel value and generates the upper and lower digital code values. It is also noted that the claim broadly recites, "providing a high signal and a low signal based on an image signal of a previously processed pixel". Therefore the claim can be interpreted to mean a previously processed pixel value stored as a lookup table in the PROM (as in Dolazza). It does not explicitly recite that the previously processed pixel is transmitted to the DAC to generate a range about said image signal. Therefore in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., providing a high signal and a low signal based on an image signal of a previously processed pixel that is transmitted to the DAC) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. Applicants further argue that new +Ref and -Ref analog signals are produced for each sample signal from the S/H element 280. Therefore, Dolazza does not disclose the element of "providing a high signal and a low signal based on an image signal of a previously processed pixel". The Examiner respectfully disagrees. Even though new upper and lower values are generated each time, they are based upon a previously stored look up table that is based on some kind of image signal of a previously processed pixel. As explained above the claim is broad enough to be interpreted as a previously processed pixel value stored as a lookup table in the PROM (as in Dolazza) because it does not explicitly recite that the previously processed pixel is transmitted to the DAC to generate a range about said image signal.

Art Unit: 2615

4. Applicant's argue with respect to claim 4, 13 and 19 that a preset black reference value is being equated to an analog signal of a previously processed pixel. The Examiner is broadly reading a preset black reference value as a previously processed pixel.

5. Applicant's argue with respect to claim 12 that there is no clear line of reasoning as to why it is obvious to use a 10 bit D/A converter and 7 bit A/D converter. It is well known in the art to use these circuits for high sensitivity because of more bits. Furthermore because the applicant did not contest the office's use of Official Notice in previous action, the teaching that it is well-known to use a 10 bit D/A converter and 7 bit A/D converter is hereby understood to be held as prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571)-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Application/Control Number: 09/827,942

Page 5

Art Unit: 2615

YKA

July 5, 2005



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